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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 30th July 2025

S.R.O. No. 582/2025—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 23rd May 2025 passed in the I.D. Case No. 03 of 2018 by the Presiding Officer, Labour Court, Jeypore on the industrial dispute between 1. M/s Avantha Agritech Ltd., formerly known as BILT TREE Tech. Ltd., a sister concern of M/s BGPPL, Unit Sewa, Gaganpur, Jeypore, Koraput, 2. M/s Urvara Kris Pvt. Ltd. and 1. Shri Rajendra Kumar Patro, S/o Balkrishna Patro, 2. Shri Swadhin Biswasray, S/o Krushna Chandra Biswaray, 3. Shri Monaj Kumar Tripathy S/o Sankar Prasad Tripathy and 4. Shri Subrat Kumar Patro, S/o Jaganath Patro, C/o Shri Rama Nagar, Parabeda, Jeypore-764001 is hereby published as in the schedule below :—

SCHEDULE

IN THE LABOUR COURT AT JEYPORE, KORAPUT

INDUSTRIAL DISPUTE CASE NO. 03 of 2018

Dated the 23rd May 2025

Present :

Shri Pravuram Das Adhikari, O.J.S.,
Presiding Officer.

Between :

1. M/s Avantha Agritech Ltd., formerly known as BILT TREE Tech. Ltd., a sister concern of M/s BGPPL, Unit Sewa, Gaganpur, Jeypore, Koraput.
2. M/s Urvara Kris Pvt Ltd. (added by amendment)

. . Employers/ Management

And

1. Shri Rajendra Kumar Patro, S/o Balkrishna Patro.
2. Shri Swadhin Biswasray, S/o Krushna Chandra Biswaray.

. . Workmen/ Claimants

3. Shri Monaj Kumar Tripathy,
   S/o Sankar Prasad Tripathy and
4. Shri Subrat Kumar Patro,
   S/o Jaganath Patro,
   C/o Shri Rama Nagar, Parabeda,
   Jeypore-764001.

(for its adjudication and to answer the question under the reference)

U/s 12(5), read with S 10(1)(c) of the Industrial Disputes Act, 1947.

Appearances :

Shri Kedar Nath Samantaray	. .	For the Management
1. Shri Aswin K. Patnaik	. .	For the Workmen
2. Shri Basant K. Patro		
3. Shri Anup K. Patro		

AWARD

This matter arises out of the reference made by the above appropriate Government under the aforesaid sections of Industrial Disputes Act, 1947 (for brevity hereinafter, I.D Act) for determination of the dispute in between the above parties by answering its schedule question upon retrenchment of the above claimants by the management and as to the appropriate reliefs to which they are entitled to thereunder.

2. Shorn of unnecessary details, the case of the claimants may be permitted to be reproduced, in brief, as may be necessary for adjudication of their dispute, as per their joint claim statements wherein it has been stated that the claimants Shri Rajendra Kumar Patro, Shri Swadhin Biswasray, Shri Monaj Kumar Tripathy (hereinafter in short, C1,C2 and C3) initially joined with the above Management No. 1 (hereinafter in short, M1) as Assistant (field) Trainees on the 1st April 1998, the 1st March 2006 and the 24th November 1998 respectively with their respective monthly consolidated stipend of Rs. 1,900, Rs. 2,000 and Rs. 1,700. it is further stated that their services were confirmed on the 11th January 2000, the 18th September 2008 and the 11th January 2000 respectively as regular employee whereas the claimant Shri Subrata Kumar Patro (hereinafter, in short, C4) initially joined with M1 on the 1st March 2011 as Junior-Trainee-Extension with monthly consolidated stipend of Rs. 6,697 and his service was confirmed as regular employee on the 22nd September 2011. It is specifically stated that principal activity if each of them was to remain in charge of specific area of Block or Panchayat for sale of plants, imparting technical know-how to the farmers, communicating collection of cost of plants from farmers, and conducting farmers' meetings, exposure visits, liaison with forest and Bank Official pertaining to nursery and plantation works and thereby they claim to be workmen under Section 2 (s) of the I.D Act of M1 which is allegedly stated by them to be an Industrial Establishment/Undertaking for carrying on an industry in view of its structure, activities and services and also for undertaking plantations activity under the Plantation Act, 1951 and thereby the same is an Industry under Section 2(J) of the I.D. Act.

2.1 It is further stated therein that due to their sincerity, devotion to duty, interest and hard work, M1 gave them good performance appraisal reports and also raised their respective perks and wages per annum to Rs 2.46 lacs, 1.36 lacs, 192 lacs and 2.08 lacs respectively since the 1st July 2016. It is alleged that without taking into consideration their long unblemished service, seniority and good records and without due notice and without any advance notification for the

closure / Lay-off of a substantial unit and in utter violation of the established procedures applicable to them, M1 being whimsical and hasty enough terminated them from their services w.e.f the 1st October 2016 and thereby it has acted contrary to the Labour laws and principle of natural justice, more specifically violating the provisions of Section 25-F, 25-G and 25-H of the I.D. Act. Being aggrieved, they requested M1 for reconsideration of its stand and to retain them in their services following the principle of "Last Come First Go", in the eventuality of stoppage of operations and uncertainty in future prospect for cogent reasons, since their juniors were retained in their services but their such request was not considered by M1. Then, they sent legal notices on the 29th September 2016 to M1 but got unsatisfied answer. Then, they informed about such acts of M1 to the District Labour Officer-*cum*-Conciliation Officer, Jeypore (hereinafter in short, C.O) vide complaint-petition dated the 13th October 2016 with a request to intervene and settle the matter through a Joint discussion/ conciliation. The C.O is said to have sent notice to M1 for conciliation and settlement but the settlement could not be arrived at despite repeated efforts in result of which the conciliation proceeding has ended in fail.

2.2 It is stated that pending such conciliation, M1 allegedly sent Bank Cheques to C1,C2, and C3 bearing No. 7709, dated the 29th October 2016 for an amount of Rs. 1,54,837, 7706 dated the 29th October 2016 for an amount of Rs. 63,835, 7710, dated the 29th October 2016 for an amount of Rs 1,08,383 respectively drawn on Bank of India, Jeypore Branch along with their respective statement of full and final settlement whereas only registered letter without any Cheque to C4 along with his statement of full and final settlement showing his outstanding amount after adjustment of his dues. The same are said to have been accepted by them under protest within the knowledge of the C.O on the ground that though above payments by issuance of cheques along with full and final settlement statement have been made but the same was prepared by *suo motu* calculation of their amount by M1 at its whims and pleasure belatedly after lapse of one and half months of their termination. As such, the same is alleged to be an after- thought and contrary to the provisions of Section 25 (f) of the I.D. Act and the amount was lesser than their appropriate legitimate dues in consideration of their length of service and last pay drawn by them. According to them their total appropriate dues towards their retrenchment compensation to which C1, C2, C3 and C4 claim to be entitled to are Rs. 4,17,885, Rs. 1,32,992, Rs. 3,26,154, Rs. 1,10,454 respectively along with 18 % interest as per computation which has been made in consideration of their respective monthly salary @ Rs 20,531.25 or say 20,500, @ 11,333 or say 11,300, @ 16,000 and @ 17,333 and their respective period of service which may be permitted to be reproduced as given below :—

THEIR CLAIM COMPENSATION AMOUNT *VS* AMOUNT SO PAID BY M1

Claimants	C1	C2	C3	C4
Service Period (years)	18	10	18	5
One month notice pay (A)	20,500	11,300	16,000	17,300
Retrenchment Benefit (B)	1,84,500	56,500	1,44,000	43,250
Gratuity (C)	2,12,885	65,192	1,66,154	49,904
Total = D (A+B+C)	4,17,885	1,32,992	3,26,154	1,10,454
Payment received under protest	1,54,837	63,835	1,08,383	-

2.3 Upon above failure of the conciliation proceeding, the C.O is stated to have submitted its report under Section 12(4) of the I.D. Act to the above appropriate Government which had been pleased to refer their dispute/matter vide its Order 7003, dated the 9th October 2018 for its

determination through proper adjudication upon filing of their claim statements by answering the question under schedule as given below:—

SCHEDULE

"Whether the termination of service of the workmen namely Shri (1) Rajendra Kumar Patro, (2) Swadhin Kumar Biswas Ray, (3) Manoj Kumar Tripathy and (4) Subrat Kumar Patro by the management of M/s Avantha Agritech Ltd. (formerly known as BTTL) BILT, Unit Sewa by way of refusal of further employment w.e.f the 1st October 2016 is legal and/ or justified ? If not, what relief the workmen are entitled to ?"

Accordingly, C1 to C4 have filed their joint claim statement on the 1st March 2019 and subsequently C1, C3 and C4 only have filed their joint amended claim statement on the 28th December 2023. Besides above, it is also alleged in their claim statement that they were compelled to work overtime for more than 8 hours without any extra payment and without maintaining any register to record their working hours and overtime wages which has allegedly led to the unlawful trade practice by M1. Accordingly, it is prayed therein for holding their such terminations as illegal for non-compliance of the provisions under Section 25-F of the I.D. Act and for inadequate payment of their compensation and for delayed payment for notice period for which M1 is liable to reinstate them and alternatively for payment of the adequate amount, if they are not reinstated for any reasons.

3. Upon notice, after filing of the above joint claim statement, M1 entered its appearance through authorised Officer-Manager and filed written statement (hereinafter, WS for short) on the 21st September 2019 with a prayer for dismissal of this proceeding on the ground that the same is not maintainable either on facts or/and in law since their termination by M1 is legal and justified, mainly for it being not an Industrial Establishment/Undertaking for not carrying on any "Industry" and for the claimants are not "workmen" within the meaning of the I.D. Act. It is specifically stated that their allegations are not true nor valid ones and the same are denied as such for which the same are to be proved by them by discharging their burden of proof of the facts which are not specifically admitted by it. It may be stated further that though admittedly M1 is having its Unit at SEWA At/PO Gaganpur, Jeypore, Dist. Koraput under its registered office at "Thapar House", 124, Janpath, New Delhi-110 001, which is stated to have been incorporated under the Companies Act 1956 has terminated them along other management staff from their services but the allegation of illegal termination is denied. It is stated that their terminations-were made for justified reasons and as per their agreed terms and conditions negating the application of the provisions of I.D. Act. It is specifically stated that M1 is not an industrial undertaking nor carrying any activity to be called as an Industry under Section 2(j) of I.D. Act for it was running Nurseries with sole purpose of developing the plantations activity (purely Agricultural in nature) and its role was to identify the farmers who were interested in Eucalyptus Plantations on their own land and only to guide them how to develop the said plantations, without any profit intention.

3.1 The justified reasons for their termination according to M1 which is may be further stated that M1 was compelled to downsize its management staff as well as the retainers under compelling circumstances in the year 2016 for it faced with drastic financial crisis due to suspension of said Nursery operations on account of scarcity of water in result of which its sale target drastically came down to 25% saddled with high operating cost and was on the verge of collapse for which it terminated its 20 management staff including C1, C2, C3 and C4 who were serving as an Officer

Grade B1, Supervisor, Junior Officer and Officer of its extension department respectively. It is further stated that C1, C2, C3 and C4 had been working in managerial and/or supervisory capacity and drawing monthly salary of Rs. 20,500, Rs. 11,333, Rs. 16,000 and Rs. 20,500 respectively while they were admittedly remaining in charge of Jeypore, Similiguda, Balimela and Malkanagiri Block respectively for selling of clone plants and to conduct farmers meetings at their villages and to provide technical knowledge to farmers as stated in the claim statement. It is further stated that they were responsible for all extension development works of farmers in their jurisdictional area with help of temporary workers who were doing ground survey and reporting directly to them for achievement of their set target under their control and supervision and as such the claimants were their reporting authorities. Their liaison works with Government and Bank towards nursery and plantation works is admitted. It is further stated that the nature of their works was not only administrative but also supervisory in nature and that they were drawing salary more than the prescribed limits of ten thousands per months for which they are not workmen under Section 2(s) of I.D. Act.

3.2 It is also alleged that such financial crisis was faced by M1 since the claimants did not achieve their sale targets during the plantation seasons 2015-2016 for their poor performance for which the management took such decision to down size the staff force and accordingly admittedly issued termination letters to them prior to their termination w.e.f the 1st October 2016 intimating therein that they were entitled to receive all applicable dues and benefits accrued to them during the course of their employment and also the salary for the notice period as per its rules and regulations applicable to them. According to M1, the claimants were working as management staff mutually having agreed on their contractual terms and conditions, as per its rules and regulations which were within the knowledge of the claimants, particularly as to termination of their services by either side by giving one month notice or on month's salary in lieu thereof, as per the terms and conditions of their appointment letters. Accordingly, the above cheque amounts were paid to them towards their full and final settlement of all service benefits as per their entitlements for their terminations which were beyond the control of M1 for which their termination is legal and justified while the provisions of I.D. Act are not applicable to their dispute or difference. As such the present proceeding on reference being not maintainable liable to be dismissed.

4. Upon the above the WS, the claimants are found to have filed their rejoinder on the 20th December 2019 reiterating the substantial averments as per their claim statement with some modifications and clarifications and also disclosing some material facts though the same were not disclosed therein. It is specifically stated that although C1, C2, C3 and C4 were designated as "Officers" but they all were doing the jobs of workmen in pursuing the people for plantations and doing other works. It is further stated without specifically disputing or admitting as to their direct control and supervision over the works of the contractual/daily waged/ temporary workers as stated in WS that the claimants had no choice but to engage/ disengage (when required) such workers who were engaged in carrying out the clone plants and keeping/depositing the collected fees. It is stated that their nature of works is neither administrative nor supervisory but their duties were mainly manual and clerical in nature without having their independent authority to appoint or discharge any workman. It is further stated that though their designations as field officers which have been allegedly changed by M1 without changing their status and that designation is not determinative factor of workman. It is stated that the determinative factors are main duties and not some incidentally done. As such they can not be denied to come under the purview of Section 2(s) of the I.D. Act, particularly when they had joined as a Field Assistant and continued as such only

with some pay hikes due to pay revision formula and changed their designations of “Field Officers” when their such status has been accepted by the C.O. and its higher Authorities which cannot be thrown out now. It is also stated that M1, who was doing the commercial business for M/s BILT SEWA, was a sister concern of the said paper mill though it has been separately registered but was run as per requirement of mother company and was having profits motive which can be seen from WS at Sl. No. 5 and thereby in law, M1 is bound to make all payments of the claimants as per the provision of the law in force. Accordingly, M1 may kindly be directed to make payment of full back wages up to the date of decision along with other statutory dues since the date of their terminations for non-compliance of the statutory provision under Section 25-F of I.D. Act. As such, they are entitled to a declaration for continuation in their service with full back wages as per their claim statements.

5. On perusal of above pleadings of the both side, the following issues arise for due determination of their dispute/matter under the above reference.

ISSUES

(i) Whether this proceeding on reference is maintainable ?

(ii) Whether M1 is carrying on any Industry under Section 2(J) of I.D. Act and is called thereby an industrial establishment or undertaking under Section 2(ka) of I.D. Act ?

(iii) Whether the claimants working under M1 do fall within the definition of workman under Section 2(s) of the I.D. Act ?

(iv) Whether the termination of their services is legal and/or justified ?

(v) Whether the claimants are entitled to reliefs as sought for or any other reliefs under the I.D. Act ?

6. In order to substantiate their claim the claimants-C1, C3 and C4 only have examined themselves as W.W.1 to W.W.3 and have adduced documentary evidence vide Exts.1 to Exts.46/1, while C2 has not participated in hearing, whereas only Deputy Manager on behalf of M1 has been examined as M.W.1 who has proved documentary evidence vide Exts. A to Ext. AAN on its behalf. Besides, the claimants have filed their written notes of arguments dated the 24th October 2024 though their Learned Advocate within the knowledge of the Learned Advocate for M1 placing reliance upon the decision of Hon’ble Apex Court, in support of their contention as to workman, in the case of S.K. Maini *Vs.* Carona Sahu Co Ltd. (1994) 3 SCC 510 and Hussan Mitthu Mahasvadkar *Vs.* Bombay Iron and Steel Labour Board, 2001) 7 SCC 394 , without filing the copies of the same and by filing the photocopies of judgments of the Hon’ble Supreme Court of India in the case of S.K. Verma *Vs.* Mahesh Chandra and Another reported in AIR 1984 SC 1462 and Air India Cabin Crew Association and Ors. *Vs.* Union of India and Ors reported in (2012) 1 SCC 619 Judgment dated the 18th June 2019 and in the case of Shaban Ali Shaikh *Vs.* Dy Commissioner of Labour & Ors. in WP No. 1873 of 2018. On the other hand, Ld. Advocate for M1 is found to have placed reliance and filed the photocopies of the judgments vide memo of citation within the knowledge of the claimants, in the Case of The Management of State Farms Corporation of India Ltd. Melehengam West Post, Meleallipattu *Vs.* The Presiding Officer, Second Addl. Court, Madras & Ors. 1996 LLJ P20 of Hon’ble Madras High Court, in support of its contention that M1 is not an Industry nor an Industrial undertaking for running no industry and in support of its contention denying the status of claimants as “workmen” under Section 2 (s) of I.D. Act, the judgements of in the case of Ananda

Regional Co-op. Oil Seedsgrowers Union Ltd. *Vs.* Shailesh Kumar Harshadbhai Shah, 2006LLJ, Vol-3 Page 767, H.R Asyanthaya etc. Etc. *Vs.* Sandoz (India) Ltd. etc. etc, 1995 LLJ , Vol-1 Page 330 of the Hon'ble Apex Court and the decision of Hon'ble High Court of Calcutta in the case of Subir Guha Thakurta *Vs.* Johnson and Johnson Ltd. and others, 2006 , LLI, Vol.3 Page 408 and the decision of Hon'ble High Court of Bombay in the case of Arvind Manikchand Kantharia *Vs.* S.V Kottnis, Member, Industrial Court, Kolhapur & Ors, 1995 LLJ Vol.-3 Page 120 of Hon'ble Madras High Court and two Judgements of Hon'ble Apex Court and one of Madras High Court in support of its contention under Section 25F of the I.D Act in the case of Management of Hindustan Steel Ltd. *Vs.* The Workmen & Ors, dated the 12th January 1973 and M/s West Jamria Coal Co.Ltd. *Vs.* Workmen dated the 26th August 1968 and S Anthony Raj & Anr. *Vs.* A Shanmugam & Ors, dated 1995 LLJ Vol 3 Page 1208. The applicability and acceptability of the above decisions as relied upon by the parties may be permitted to be examined at relevant time and occasions as would be arising during the course of discussion for appreciation of the facts and evidence thereto.

FINDINGS

7. *Issues Nos. (i, ii, iii & iv)* :— These issues are taken up together first to avoid repetition and being vital and interlinked ones. There is no dispute the claimants-C1, C2, C3 and C4 have been terminated w.e.f the 1st October 2016 by issuance of termination letters, dated the 22nd September 2016 to each of them on behalf of M1 refusing reconsideration of their termination. On the other hand, there is dispute as to legality of their terminations for non-compliance of the provisions of Section 25-F of the I.D. Act before issuance of termination letters to them, for M1 negating the requirement of such compliance for it was not carrying on any "Industry" as it was doing agricultural activities without any profit intention / motive and if its activities be treated as industrial ones but the claimants can not be called as "workmen" within the meaning of Section 2(s) of I.D. Act being covered under its exclusions for they were working in supervisory capacity and/or managerial capacity and drawing salary exceeding the prescribed limits thereunder for which their terminations can not be called as "Industrial Disputes" under the I.D. Act and thereby ruling out it's applicability including the provisions under Section 25-F/G/25H thereunder and thereby negating the maintainability of this proceeding on reference having no merits for reliefs as sought for under the I.D. Act, when they have been so terminated as per the terms and conditions of their appointment letters as agreed upon only under unavoidable and compelling situations/ circumstances compelling it for refusal of their request for continuance in services. On the other hand, the claimants claim that they were doing the manual and clerical works under M1 while doing the industrial activities through its unit and thereby they are "workmen" under Section 2(s) of I.D Act and M1 falls under the definition of Section 2(Ka) thereunder having its a unit carrying on an industry under Section 2(j) of I.D. Act for which they have raised their dispute of terminations as "Industrial Dispute" under Section 2(k) of it for their such termination being illegal for non-compliance of the above provisions of I.D. Act for which this proceeding on reference can be said to be maintainable and as such they are entitled to reliefs thereunder having their merits for which this Court is required to answer its above schedule question and to grant appropriate reliefs under the I.D. Act.

7.1 Before proceeding further to answer the above questions, particularly when the maintainability of this proceeding has been disputed, I am of the humble opinion that it is apposite to reproduce the relevant provisions of the I.D. Act herein below considering both side pleadings :

Section 2 : Definition—In this Act, unless there is anything repugnant in the subject or context-

(a) appropriate Government ..xx..xx.

(aaa)] “average pay” ..xx..

(cc) “closure” means the permanent closing down of a place of employment or part thereof;

(d) ..xx. (e) ..xx.. (ee) ..xx.. (f) ..x.x..

(g) “employer” means,—
(i) in relation to an industry carried on by or under the authority of any department of 9[the Central Government or a State Government], the authority prescribed in this behalf, xx...;
(ii) ..xx..; (gg) “executive” ..xx....

(j) “industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

(k) “industrial dispute” means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

(ka) “industrial establishment or undertaking” means an establishment or undertaking in which any industry is carried on : Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,—

(a) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking, such unit shall be deemed to be a separate industrial establishment or undertaking;

(b) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking;]..xx....(l) “lock-out” means the6[temporary closing of a place of employment], or....xx..

(oo) “retrenchment” means the termination by the employer of the service of workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—(a)..xx..; or (bb)..xx..; or (c) ..xx..(ra) “unfair labour practice” means any of the practices specified in the Fifth Schedule; (rb) “village industries” ..xx..

(rr) “wages” means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes—

(i) such allwances (including dearness allowance) as the workman is for the time being entitled to; (ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity..xx..;(iii) any travelling concession;(iv) any commission payable on the promotion of sales or business or both; but does not include—

(a) any bonus; (b) any contribution paid or payable by the employer to any pension fund or provident fund or..xx..(c) any gratuity payable on the termination of his service;]

(s) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) ..xxx..; or(ii) ..xx..;or (iii) who is employed mainly in a managerial or administrative capacity; or (iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

Chapter VA-Lay Off and Retrenchment : Section 25A-Application of Sections 25C to 25E (Right of workman laid off for compensation, Duty of an employer to maintain muster rolls of workman and workmen not entitled to compensation in certain cases):—

(1) Sections 25C to 25E (w.e.f the 24th October 1953 by Act 43 of 1953) inclusive 2[shall not apply to Industrial Establishments to which Chapter VB applies, or]--(a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the proceeding calendar month; or (b) .. xx ... (2) If .. xx...) -In this section and in Sections 25C, 25D and 25E, “industrial establishment” means--(i) a factory .. xx .. ; or (ii) a mine .. xx .. ; or (iii) a plantation as defined in Clause (f) of Section 2 of the Plantations Labour Act, 1951 (69 of 1951)

1[25B. Definition of continuous service(w.e.f the 19th December 1964) :

For the purposes of this Chapter,--(1) a workman shall be said to be in continuous service for a period .. xx .... which is not due to any fault on the part of the workman;(2) where a workman is not in continuous service .. xx .., he shall be deemed to be in continuous service under an employer--(a) for a period of one year, if the workman, .. xx .., has actually worked under the employer for not less than-(i) .. xx; and(ii) two hundred and forty days, in any other case;(b) , .. xx ... mine; and(ii) one hundred and twenty days, in any other case. Explanation.- .. xx ..

Section 25D - Duty of an employer to maintain muster rolls of workmen: Notwithstanding that workmen in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, .. xx ..

Section 25F - Conditions precedent to retrenchment of workmen: No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until--

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay 2[for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3[or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

7.2 On perusal of the above provisions it appears no doubt that "Employer" under Section 2(g), Industrial establishment or undertaking under Section 2 (ka) and "Workman" under Section 2(s) includes the term "Industry" whereas the Industrial Dispute under Section (k) which does not so include the term "Industry" which means to any dispute or difference between employers and employers or between employers and workmen or between workmen and workmen, in connection with employment or non-employment or terms of employment or with conditions of labour, of any person. Thus, there arises question if there can be, any industrial dispute without an industry. The answer be negative since the term "employment" used in "industrial dispute" under Section 2(k) is included in the term "industry". The term "Industry under Section 2 (j) means any business, trade, undertaking, manufacture or calling of employers and it includes any calling, service, employment. handicraft, or industrial occupation or avocation of workmen. Thus; there may be the question of doubt if either the 1st part of the definition on employers point of view or the second part of it on the employees points of view would mean the "Industry" or it means to both together. Such doubt may be well cleared by reading of the Judgement of the Hon'ble Apex Court (7-Judges bench) in the case of Bangalore Water Supply & Sewrage Board Etc *Vs.* R Rajappa & Others AIR 1978 SC 548 wherein, among others, it has been observed that wherever an industrial dispute could arise between either employers and their workmen or between workmen and workmen, it should be considered an area within the sphere of 'industry' but not otherwise. It has been observed at Para. 52 and onwards which may be relevant in this case may be permitted to be reproduced as follows :—

"52. .. xx .. The definitions of employer [Section 2(g),industry [Section 2(j) industrial dispute [Section 2(k)] workman [Section 2(s), are a statutory dictionary, not popular parlance. It is plain that merely because the employer is a government department or a local body (and, a fortiori, a statutory board, society or like entity) the enterprise does not cease to be an 'industry'. Likewise, what the common man does not consider as 'industry' need not necessarily stand excluded from the statutory concept. (And *vice versa*) The latter is deliberately drawn wider, and in some respects narrower, as Chandrasekhara Aiyer, J., has emphatically expressed: In the ordinary or non-technical sense, according to what is understood by the man in the street, industry or business means as undertaking where capital and labour co-operate with each other for the purpose of producing wealth in the shape of goods, machines, tools etc., and for making profits. The concept of industry in this ordinary sense applied even to agriculture, horticulture, pisciculture and so on and so forth. It is .xx....xx.. The conflicts between capital and labour have now to be determined more from the standpoint of status than of contract. ....xx... 80. Even according to the traditional concepts of English Law, profit has to be disregarded when ascertaining whether an enterprise is a business: 3. Disregard of Profit. Profit or the intention to make profit is not an essential part of the

legal definition of a trade or business; and payment or profit does not constitute a trade or business that which would not otherwise be such".(Halsbury's Laws of England, Third Edition, Vol. 38, P. 11) . .xx ... 88. ..xx.. Presence of profit motive is expressly negated as a criterion ..xx.. Two seminal guidelines of great moment flow from this decision: 1. the primary and predominant activity test; and 2, the integrated activity test. The concrete application of these two-fold tests is illustrated in the very case. We may set out in the concise words of Subba Rao J., the sum-up: The result of the discussion may be summarised thus: (1) The definition of "industry" in the Act is very comprehensive. It is in two parts: one part defines it from the standpoint of the employer and the other from the standpoint of the employee. If an activity falls under either part of the definition, it will be an industry within the meaning of the Act. (2) The history of industrial disputes and the legislation recognizes the basic concept that the activity shall be an organised one and not that which pertains to private or personal employment. (3) The regal functions ..xx... are necessarily excluded from the purview of the definition ...xx... (4) If a service rendered by an individual or private person would be an industry, it would equally be an industry in the hands of a Corporation. (5) If a service rendered by a corporation is an industry xx ... (6) If a department of a municipality discharged many functions, some pertaining to industry as defined in the Act and other non-industrial activities, the predominant functions of the department shall be the criterion for the purpose of the Act. 95. A conspectus of the clauses has induced Gajendragadkar J. to take note of the impact of provisions regarding public utility service also :..xx....xx.. 120..xx.. The test is not the predominant number of employees entitled to enjoy the benefits of the Act. The true test is the predominant nature of the activity ..xx.. 121....xx. The workers are not concerned about the destination of the profits. They work and receive wages. They are treated like any other workman in any like industry ....xx... 152 ...xx... So we proceed to formulate the principles, deducible from our discussion, which are decisive, positively and negatively, of the identity of 'industry' under the Act. We speak, not exhaustively, but to the extent covered by the debate at the bar and, to that extent, authoritatively, until overruled by a larger bench or superseded by the legislative branch. Industry', as defined in Section 2(j) and explained in Bauerji, has a wide import.(a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee, (the direct and substantial element is chimerical)(iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale, prasad or food), *prima facie*, there is an 'industry' in that enterprise. (b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint private or other sector.(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer- employee relations. (d) If the organisation is a trade or business it does not cease to be one because of philanthropy animating the undertaking. II. Although Section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself ...xx.. This yields the inference that all organized activity possessing the triple elements in I (*supra*), although not trade or business, may still be 'industry' ..xx.... III. ..xx... Nothing less, nothing more.(a) The consequences are (i) professions, ..xx.... (iv) research institutes (v) charitable projects and (vi) other kind

red adventures, if they fulfil the triple tests listed in I (*supra*), cannot be exempted' from the scope of Section 2(j).(b) ..xx..... xx.... IV The dominant nature test :(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi Case or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur, will be true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status. (b) ..xx (c)..xx... 163. We overrule Safdarjung, Solicitors' Case, Gymkhana, Delhi University, Dhanrajgirji Hospital and other rulings whose ratio runs counter to the principles enunciated above, and Hospital Mazdoor Sabha is hereby rehabilitated...xx.."

7.3 After the above interpretation of the term industry under Section 2 (j) of I.D Act, the said definition has been amended vide Act 46 1982 which may be reproduced as follow :—

Section 2(j) (as amended by Section 2 C of Act, 46 of 1982) "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not, -(i) any capital has been invested for the purpose of carrying on such activity; or (ii) such activity is carried on with a motive to make any gain or profit, and includes -(a) any activity of the Dock Labour Board established under Section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1949);(b) any activity relating to the promotion of sales or business or both carried on by an establishment, but does not include -(1) any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one. Explanation: For the purposes of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in Clause (f) of Section 2 of the Plantations Labour Act, 1951 (69 of 1951); or (2) hospitals or dispensaries; ..x.... such activity is less than ten;]

From the above it appears that in the amended Section 2(j) of I.D Act, the principle of triple test along with other guiding principles as propounded in the above the judgment of Hon'ble Apex Court as seen above is found to have been accepted, except with certain exceptions/exclusions as expressively provided therein. Thus, I may be permitted to examine the present case in view of the above statutory provisions and authoritative pronouncements so far as the disputed terms are concerned. Admittedly, M1 is found to have raised dispute as to its activity to be "Industry" in W.S vide its Paras. 3 & 4. The ground for such dispute which has been taken thereat may be stated on being read and understood that since the mother company of M1 with sole purpose to develop the plantation (purely agricultural in nature) is running nurseries alike the unit at SEWA-M1 whose role is limited development of Agriculture of Plantation without any profit intention is engaged in the production of high quality Eucalyptus clones and to identify the farmers who are interested in plantation thereof and to guide them to develop the plantation only. Such absence of profit intention of M1 has been negated on behalf of claimants vide their rejoinder at Pages 3, 6, 9 and 12/13-II pointing there at the averments at Para. 5 of W.S where M1 has stated to have been saddled with

high operating cost, going through financial crisis and was on verge of collapse for which it was compelled to down size its staff including C1 to C4 from all functions and locations, indicating its heavy losses. It is also stated thereat that such intention can also be seen at Para. 14 of W.S corroborating Para. 5. Admittedly, Para. 14 of W.S expressly goes to show that M1 is claimed to have sustained heavy losses for various reasons and to escape from that losses it was so compelled to take policy decision to terminate the claimants and others. Amid such reply in the rejoinder pointing to such contradicting pleas of M1 as to absence of intention of profit and heavy losses, Ld. Advocate for M1 is found to have suggested C4-WW3 at Para. 30 of his cross-examination, that M1 was forced to so terminate to avoid the losses after having sustained huge loss for plantation drive on being hampered due to scarcity of water; and clones could not be sold; which were beyond its control. Similar suggestion is found to have been given to C1-W.W.1 at Para. 38 of his cross-examination on behalf of M1. Such plea of absence of profit intention at Para. 3 as well as financial crisis for the above reasons resulting in terminations at Paras. 4,5,9,13,17 are also found from the affidavit evidence of M.W.1. Moreover, Ext. AAL of M1 proved through MW1 without objection goes to show that there has been reduction of profit from Rs. 2,28,62,228 as at dated the 31st March 2016 to 79,49,500 as at dated the 31st March 2017, both are same before tax and after tax. All these taken together proves the financial crisis or loss for the period which is the case of M1. The consequential effects of such crisis has ultimately resulted in transfer of business by M1 to M2 vide Ext. 46 which has been proved by W.W.1 without objection not being raised on behalf of M1. No doubt intention and motive are matter of mental elements. The same as such can not be seen. Only can be gathered from the facts and circumstance including cause and effect as seen above. M1 facing actual financial crisis in result of lowering down of its profits causing consequential effects of termination due to stoppage of operation as claimed by it and subsequently transferring its such business vide Exts. 46 to M2 can not be believed to have had no profit intention in doing such business. Moreover, the law has been settled that absence of intention of profit/profit motive is irrelevant in deciding an activity to be an industrial activity and to be called an industry as would seen from the above said authoritative pronouncement of the Hon'ble Supreme Court propounding the triple test principle as well as amended statutory provisions to Section 2(j) of the I.D. Act vide Act, 46 of 1982. Accordingly, it can be said that the ground of absence of profit intention as taken by M1 is not sustainable either in facts or in law. Consequentially, the dispute of M1 as to industry is limited to activity of purely agricultural in nature as contended on its behalf in W,S.

7.4 Despite the above contention on behalf of M1, admittedly none of the claimants during their cross-examinations has been suggested specifically though disputing M1 to be an industry on any of the grounds far less of carrying on its pure agricultural activity and/or its role is limited to Agriculture of plantation as contended. Such purity or limitation of M1 is not expressly found from the affidavit evidence of M.W.1. On the other hand, there appears in the affidavit evidence of M.W.1. complex activities such as activity of production of high quality clones through its nursery operations; identification of farmers and developments of plants in their lands; sales and supply of clones under targets; supply of raw materials to its dependent sister concern unit, for production of papers purportedly making them marketable, due to stoppage of whose operation is claimed to be one of the causes for such terminations. M.W.1 is also found to have admitted in his cross-examination that M1 was selling plants to different farmers. Such inter-relationship of supply of raw material and production of paper in the sister concerned unit is also revealed from the cross-examination of M.W.1. Such complex nature of activities of M1 can be well seen from Ext.46.

A perusal of Ext.46, wherein M1 is seller and M2 is the buyer therein, would reveal that may be permitted to be reproduced herein in below :—

> " Seller is engaged in the business of *inter alia*, contract farming to raise pulpwood plantations and grow various agricultural crops with farmers in various states of India. Seller engages with farmers and motivates them to use multiple cropping systems on their land including commercial trees for increased incomes. As part of its agro forestry program, seller promotes selected short rotation trees/ agri crops on behalf of user industries in the farmer fields and also undertakes wood procurement for other companies. .xx.. SALE & TRANSFER of BUSINESS ASSET: All Business Assets including but not limited to: i. Movable and tangible assets of seller including without limitation technical equipment and other operating equipment, any vehicle , office equipment and office supplies, IT equipment, computers, laptops, printers, copiers, tele copiers and other IT periphery, furniture, fixtures, data media together with all manuals relating thereto and biological assets such as plantations, saplings, seeds etc. used in business and especially listed in Exhibits-C "_

In view of the above, it can not be safely said that M1 was doing purely agricultural activity of plantation without being integrated with other business or industrial like operations, particularly when M.W.1 is so found silent as to such purity of agricultural activity.

7.5 Despite such nature of agricultural activities of the M1 being proved to be integrated with other business or industrial activities, nothing has been pleaded or/and proved on behalf M1 as to dominant nature of agricultural activities, if any, or their severability from other industrial activities amid such complex nature of activities carried on by it. In absence of any such pleadings and proof, the whole of the activities undertaken by M1 may be deemed to be industrial activities or carrying on any industry, if the same would pass triple test of "industry" as seen above where the true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations. Such deemed definition of Industry can be well presumed in favour of M1 in absence any dispute to that effect not being raised on behalf of M1 unlike the status of claimants as "workmen" in the above conciliation proceeding resulting failure report leading to the above reference vide Ext. 1 as would be seen on perusal of failure report annexed to Ext. 1 read with Ext. R , Ext S and Ext. T- written submissions to C.O. made on behalf of M1 and statement of M.W.1 before him respectively, Besides, no dispute as to "Industry" under Section 2 (j) of I.D Act on any ground far less of grounds as taken in W.S is found to have been raised on behalf of M1 in its letters vide Ext. J /Ext. 20, Ext. AD, Ext. AS/Ext. 27 and Ext. AAG/Ext. 37 to C1, C2, C3 and C4 in reply to their respective legal notices vide Ext. H /Ext.18, Ext. AC, Ext. AR/Ext. 26 and Ext. AAE/ Ext.36 to M1 despite their allegation therein as to non-compliance of specific provisions of I.D Act before their alleged terminations. The same have been remaining undisputed. Thus, there is no doubt such dispute can be said to have been raised only in WS. There is no dispute that the claimants have categorically pleaded in their claim statements that M1 is an "Industry" in view of its structure, activities and services and for being an establishment undertaking activity of plantation under Plantation Labour Act, 1951. There is no dispute M1 is an establishment or undertaking of SEWA units undertaking multiple activities as seen above. There is no dispute as to its plantation activities by M1 nor as to the application of Plantation Labour Act, 1951 (hereinafter Plantation Act, in short) to its activities carried on by it. The application of the plantation Act to M1 is moreover revealed from the conciliation failure reports of C.O annexed to Ext.1. The said failure report also

reveals the meaning of “worker” in the said Plantation Act holding therein the status of claimants therein as “workmen” for being field Assistants at the time of their appointment and for the *prima facie* of findings of M1 an “Industry” and the claimants as “workmen”, the reference has been made vide Ext.1 for adjudication of their dispute as industrial dispute under the I.D. Act. There is no dispute, the said conciliation failure report nor the reference order arising out of it vide Ext.1 is found to have been challenged on behalf of M1 in appropriate forum save and except in this proceeding through the pleadings in the W.S which is to be proved through evidence on its behalf. On the other hand, despite such categorical pleadings and report of C.O. leading to reference vide Ext. 1, nothing has been pleaded or proved as to non-applicability of the Plantation Act to its activities of agricultural operations or such agricultural activities though integrated with industrial activities but having dominant nature of agricultural activities or that as such its activities are exclusions from being Industries. In absence of such pleadings and evidence it can be safely said that the activities as carried on by M1 though agricultural operations but are coming under the Plantation Act, if otherwise the contrary is not proved in this proceedings. Admittedly, the agricultural activities being integrated with any other industrial activities are not exclusions from the definition of “Industry” under Section 2 (j) as per above amended Act. In other words, pure agricultural activities or predominant activity of agricultural activities are exclusions whereas any agricultural activities being integrated with industrial activities including promotion of sales or business or both carried on by an establishment can not be said covered under exclusions but inclusions, if the dominant nature of activities of agricultural operations and it is not relating to plantation Act, being not proved by M1, in this proceedings.

7.6 On combined reading of aforesaid evidence on behalf of M1 along with its pleadings as well as unrefuted evidence of the claimants, it would reveal that the mother company of M1 being incorporated under Companies Act having units of nurseries alike SEWA Unit-M1 is carrying on activities of production of high quality clones and undertaking plantation operations there on along with other integrated industrial activities as seen above. Admittedly such activities of M1 could not be possible without the labour of workmen and capital of M1. M.W.1 in his cross-examination at Para. 92 stated that in the year, 2016 there were 30 employees and about 50 daily labourers/ workers working in his establishment. The employment of about 60 labourers/ workers in his nursery who were paid wages under Minimum Wages Act as per their attendance unlike payments to claimants is revealed from the cross-examination of W.W.1. There is no dispute, as would be seen, from Ext. AAL and Ext. 46 on being read with the pleading as well as evidence available on record that M1, being an undertaking/establishment, by employment of its capital in terms of the property, plant and equipment and other assets is found carrying on business/ trade and carrying on industrial activities integrated with agricultural activities for the production of clones and distribution/supply and/or selling of thereof and undertaking plantation works in the field of different farmers and also carrying on selling/supply of raw materials/pulpwood to other companies including its sister unit for production of paper making them marketable and undertaking for procurement of woods by employment of labourers/workmen to meet human needs with profit motive.

7.7 Amid the above evidence and pleadings as regards M1 an industrial undertaking or establishment or carrying any Industry and for absence of pleadings and proof of dominant activity of agricultural activity or its severability from other industrial activities, none of the claimants-W.W.1/ W.W.2/W.W.3 has been suggested denying M1 to be an industry in support of its pleadings vide WS. Moreover, they have been suggested that they can not be called as workmen under Section 2(s) of the I.D. Act for they were working in managerial/administrative and/or in supervisory capacity

and drawing salary more than the prescribed limit thereunder. Thus, there is no doubt this suggestion to claimants suggests that M1 was an Industry or an industrial undertaking or establishment where the claimants were working but they may not be as called workmen under Section 2(s) of the Act, if they are being covered under exclusions which is yet to be examined and proved. Besides, amid admission of carrying plantation activities agricultural operations for production of high quality Eucalyptus clones and evidence of carrying on other integrated activities as seen above and categorical pleadings on behalf of the claimants as to applicability of Plantation Act to such agricultural operations carried on behalf of M1 since M.W.1 himself who had participated the proceeding before C.O. is found remaining totally silent without any pleadings or evidence negating such application of the Plantation Act so as to exclude M1 from the definition under Section 2(j) the Act.

7.8 Despite the above admissions and omissions of any rebuttal pleading or evidence on behalf of M1 denying the definition of industry to its activities, M1 has relied upon the decision of Hon'ble Madras High Court in the case of The Management of State Farms Corporation of India Ltd. Melehengam West Post, Meleallipattu (*supra*). On careful reading of the same, with due respect I am of the humble opinion that this decision would not help M1 as the same can not be said to have any application to this proceedings, since the facts and circumstances in that case particularly the main and predominant activities of that farm was agricultural activity and the same was being done without the purpose of selling or producing marketable but to the Government without profit motive and without any question of application of Plantation Act applicable to the said agricultural activities unlike in this proceedings where main activity of commercial one may not be ignored particularly in consideration of Ext. 46 and Ext. AAL. No doubt, all activities of agricultural operations are not absolute exclusions nor absolute inclusions as per amended definition of "Industry" vide the Amendment Act of 46, of 1982 as seen above. On reading of this amended/redefined section, there remains no doubt the agricultural operations being integrated with the any other industrial activity which is predominant one and/or the agricultural operations carried on in a plantation as defined under Section 2 of Plantation Act, 1951 can not be said exclusions from definition of "Industry". No dispute has been raised by M1 as to application of the Plantation Act to the plantation activities of agricultural operations carried on by it as seen above. Of course this amended/redefined section had not come into force by then as per Para. 9 of this relied upon decision on behalf of M1. There is no dispute on behalf of M1 as to application of this amended section of I.D. Act far less of its commencement though the same may be a disputant one. On the other hand, there is no doubt that the pre-amended I.D. Act vide its chapter-VA-Lay-Off and Retrenchment, under which claimants allege to have had the right of notice and payment of compensation from M1 prior to their terminations, vide its Explanation to Section 25-A (2) "industrial establishment" means—

> (i) ..xx; or (ii) a mine ..xx..; or (iii) a plantation as defined in Clause
> (f) of Section 2 of the Plantations Labour Act, 1951 (69 of 1951)

7.9 The same meaning of "Industrial Establishment" has been given vide Section 25L of I.D Act (by Act, 32 of 1976). Thus, the agricultural operations of plantation activities undisputedly carried on by M1 on being covered under Section 2(f) of the said Plantation Act can be called as industry or industrial activities. To examine if the plantation activities carried on by M1 are being covered under the Plantation Act, it is apposite to reproduce the relevant provisions of said Plantation Labour Act, 1951.(with amendment w.e.f the 29th December 1981):

Section 1

(1) : This Act may be called the Plantations Labour Act, 1951 (2) It extends to the whole of India ..x.x... (3) ..xx..4 It applies to the following plantations, that is to say,- (a) to any land used or intended to be used for growing tea, coffee, rubber [cinchona or cardamom] which and measures 3[5 hectares] or more and in which 4[fifteen] or more persons are employed or were employed on any day of the preceding twelve months;(b) to any land used or intended to be used for growing any other plant, which and measures 3[5 hectares] or more and in which 4[fifteen] more persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government by notification in the Official Gazette, so directs ...xx.. ...xx.. Immediately before the commencement of this Act..]

Section 2— Definitions : In this act, unless the context otherwise requires,-

(a) “adolescent” ..xx.. (b) “adult” ..xx.. (c) “child” ..xx.. (d) “day” ..xx.. (e) “employer” when used in relation to a plantation means the person who has the ultimate control over the affairs of the plantations, and where the affairs of any plantation are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person shall be deemed to be the employer in relation to that plantation; 7[Explanation.—For the purposes of this clause, “the person who has the ultimate control over the affairs of the plantation” means in the case of a plantation owned or controlled by—(i) a company, firm or other association of individuals, whether incorporated or ..xx.. ;;] 3[(f) “plantation” means any plantation to which this Act, whether wholly or in part, applies and includes offices, hospitals, ..xx... but does not include any factory ..xx.. Factories Act, 1948;’;] (g) “prescribed” ..x.x. ; ..xx.. 4[(h) qualified medical practitioner” ..xx..] (i) “wages” has the meaning assigned to it in Clause (h) of Section 2 of the Minimum Wages Act, 1948 (XI of 1948); (j) “week” ..x.x... ; 5[(k) “worker” means a person employed in a plantations for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled manual or clerical, 7[and includes a person employed on contract for more than sixty days in a year] but does not include- (i) a medical officer employed in the plantation; (ii) any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed 9[rupees ten thousand]; (iii) any person employed in the plantation primarily in a 10[managerial or administrative capacity, notwithstanding that his monthly wages do not exceed rupees ten thousand]; or (iv) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges, drains or canals;’;] ..xx..

7.10 From the above there remains no doubt the plantation activities undisputedly carried on by M1 be covered under Section 2(f) of the above Plantation Act, if there has been notification of the appropriate government as required by it which has not been disputed here as seen above. There is also no dispute as to promotion of plantation activities along with other industrial activities of selling with profit motive as seen above. Accordingly, I am of the opinion that the whole of the activities carried on by M1 being integrated with industrial activities and agricultural activity of plantation under Section 2 of Plantation Labour Act as seen above, can be said to have passed the above Triple Test Theory which has been accepted by the amended statutory provisions of law as aforesaid for being covered under definition of the “Industry” under Section 2(j) I.D. Act, particularly considering both side pleadings amid aforesaid admissions and omissions therein and aforesaid

facts and circumstances including the evidence appearing as aforesaid, when there is expression for inclusions of agricultural activity relating to plantation activity under Plantation Act nor its exclusion was intended prior to redefined Section 2(j) of I.D. Act but was intended to be included since the meaning of industrial undertaking has been expressly provided under Section 25A-explanation to such agricultural activity. This opinion can be said to be fortified by the same Judgement of Hon'ble Apex Court in the case of Harinagar Cane Farm and Ors. *Vs.* State of Bihar and Ors. 1963-I-LLJ-692 which has been mentioned at Para. 10 of the judgment in The Management of State Farms Corporation of India Ltd. (*Supra*). This Judgement of Harinager Cane Farm & Ors. can be said to be more relevant being similar to the present facts and circumstances of this case particularly the nature of activities done by private farms wherein Hon'ble Apex Court referring its several earlier decisions including D.N. Banerji *Vs*. P.R. Mukherjee and Ors. for examining the full significance and import of the words 'industry' and 'industrial dispute' as defined by s. 2(j) and (k) of the Act which was sustained in Bangalore Water Supply Case (*Supra*), has dismissed Appeal answering the short question whether agricultural operations carried on by appellants constitute industry within meaning of Section 2 (J) - 'industry' in its broadest sense, the relevant portion of the same may permitted to be reproduced below:—

> " ..xx.. where an industrial dispute raised by the workmen of the two respective appellants had been referred for adjudication by ..xx... under Section 10(1) of the Act. Both the appellants then moved the Patna High Court ..xx... on the ground that the agricultural operations carried on by them did not constitute an industry under the Act, and so, ..xx... The High Court ..xx. held that the agricultural operations carried on by ..xx.. appellant M/s. Motipur Zamindari Co. (Pvt.) Ltd., ..xx.. private limited company registered under the Indian Companies Act which produces sugarcane for sale to Motipur Sugar Factory Private Ltd., Motipur, Muffarpur ..xx.. 3. M/s. Harinagar Cane Farm which is the appellant ..xx.. had been purchased by the Harinagar Sugar Mills Ltd., in March, 1956, and since then is functioning as a department of the said Mills. It is a subsidiary concern of the Mills and a part of the organization of the Mills itself...xx.. Mr. Setalvad for the appellants contends that in determining the question ..xx....xx.. the words used in Section 2(j), if they are liberally construed in their fullest amplitude, may perhaps be wide enough to include agriculture and agricultural operations; but he emphasises ..xx..xx.. Art. 43 of the Constitution ..xx. The argument is, ..xx... distinction is made in the relevant entries in the different Lists of the Seventh Schedule. Entries 14 and 18 in the State List, for instance, refer respectively to agriculture, including agricultural education and ...xx.. xx.. , whereas Entry 24 refers to industries subject to the provisions of entries 7 and 52 of List 1. Reliance is also placed on Entry 22 in the Concurrent List which relates to Trade Unions; industrial and labour disputes ...xx... It is further suggested that where the legislature wants to include agriculture within the scope of its industrial legislation, it makes a specific and express provision in that behalf; and in support of this argument, reliance is placed on the provisions of Section 3(19) of the Bombay Industrial Relations Act, 1946 ..xx. There is, no doubt, considerable' force in this argument. 5. On the other hand, ..xx.. it would be erroneous to suggest that the industrial law enacted by the Act intends to exclude from application of its beneficent provisions agriculture and agricultural operations. In support of this argument, reliance is placed on the provisions of the Minimum Wages Act (No. II of 1948). Section 2(g) of this Act defines "scheduled employment" ..xx.. it expressly provides: employment in

agriculture, that is to say, *inter alia*, in any form of farming including the cultivation ....xx..'Industry' in its broadest connotation which is intended by Section 2(j) would include agriculture, and , ..xx.. there is no reason why the Court should limit or circumscribe the broad and wide meaning of the word 'industry' as defined in Section 2(j) ...xx.. It is thus clear that the plantations to which the Plantations Labour Act, 1951 applies are expressly included within the expression "industrial establishment" as explained by the explanation to Section 25A of the Act. The argument is that this explanation is not intended to be excluded from the operation of the Act...xx.. in dealing with industrial matters, industrial adjudication should refrain from enunciating any general principles or adopting any doctrinaire considerations. ..xx.. desirable that industrial adjudication should deal with problems as and when they arise and confine its decisions to the points which strictly arise on the pleadings between the parties ...xx.. we propose to deal with the narrow question as to whether agricultural operations carried on by the two appellants constitute an industry under Section 2(j) or not. There is no doubt that for carrying on the agricultural operations, the appellants have invested a large amount of capital, ..xx..for the purpose of making profits .It xx..xx.. Therefore, even the narrow traditional requirements of the concept of trade or business are. in that sense. satisfied by the agricultural operations of the appellants. 9. What is more important ..xx.. When a company is formed for the purpose of carrying on an agricultural operation, it is carrying on trade or business and a plea raised by it that this organized trade or business does not fall within Section 2(j) simply and solely for the reason that it is an agricultural operation, cannot be sustained"

In view of the above long discussions by way of appreciation of the evidence and considering the both side pleadings including omission and commissions as aforesaid and having regard to the above statutory provisions and authoritative pronouncements, I have no hesitation to hold that the aforesaid integrated activities carried on by M1 can be said industrial activities to be included in the definition "Industry" u/s 2(j) of the I.D Act. As such, the contention on behalf of M1 negating its such activities to be industrial activities can not be held sustainable when raising no dispute as to applicability of Plantation Act as seen above.

8. Now it is to be seen whether the claimants are workmen u/s 2(s) of the I.D. Act and if their dispute/difference with M1 can be called as industrial dispute and if this proceeding on reference is maintainable. Admittedly at the cost of repetition, there is no dispute that the claimants working under M1 have been terminated. The claimants claim that they were so working as workmen and their dispute as such can be called as industrial dispute. The same has been disputed on behalf of M1. According to M1 the claimants can not be called as workmen for they were so working in supervisory and/or managerial/administrative capacity. Thus, there is dispute as to their status as workmen under I.D. Act. There is no doubt Section 2(k) defines industrial dispute, as seen above, means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or terms of employment or with the conditions of labour, of any person. Any person here may not mean all persons but means to workman. The same can be seen from the

above authoritative pronouncement. There is no dispute that this is not the case of any such dispute in between workmen and workmen, nor in between employers and employers since there is no dispute that M1 is the employer of the claimants. Thus, it can be safely said that any such dispute or difference in between employer- M1 and the claimants can be called industrial dispute, if they be held workmen under Section 2(s) of I.D. Act. There is no doubt, as seen from the above authoritative pronouncement that all employees under an employer may not be workmen under Section 2(s) of the I.D. Act. Section 2(s) itself provides in its main part that workman means any person (including an apprentice) who is employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. It also prescribes that if such person are covered under any of the four clauses i.e (i) to (iv) shall not be called as workmen. Thus, it is to be seen whether the claimants had been employed to do any such works as prescribed in the main part of the section and if they are being covered under any of the exclusion clauses or not. As the claimants claim to be workman under Section 2(s) , the burden of proof lies upon them to prove that they had been employed to do any of the works as prescribed main part of Section 2(s) of I.D. Act. Similarly as M1 denying their status of workmen claims that the claimants had been working in managerial/ administrative capacity and/or supervisory capacity and drawing more than ten thousands rupees per month which are under exclusions Clauses (iii) & (iv) of the section, M1 has to prove such exclusions.

8.1 Admittedly, M1 is found to have taken such denial plea of their status workmen for being covered under exclusions clauses from the very beginning in the conciliation proceeding before C.O. vide Ext. R,S & T. The failure report annexed to Ext.1 also goes show such denial plea of M1. Such denial plea has also been taken on behalf of M1 in his WS. The ground of such denial plea of M1 has been denied by the claimants in their rejoinder which discloses that their duties are mainly manual and clerical nature. Amid such denial plea of M1 and in counter to it and to prove their claim of status of workmen, each of the claimants-C1-WW1, C3-WW2 and C4-WW3 is found to have stated in his examination-in-chief in the form affidavit evidence at Para. 2 that “in the capacity of a regular employee/workman I remained in charge of specified area of Block/Panchayat for sale of plants, imparting of training/technical know-how to the farmers, communication, collecting cost of plants from farmers and conducting meeting, exposure visits, liaison with forest department and bank officials pertaining to nursery and plantation work”. From such testimony of the claimants, it can not be safely said that they were doing the above works themselves since they are not found to have stated to have done all these works by themselves nor it can be said that these works were of all regular workmen without other workers, though it cannot be denied that they remained in charge of the particular area where such works were done but it is not clear whether these works were done by themselves though it cannot be denied that they were getting these works done by others being in-charge of the area, when the engagement of other daily workers is well founded as it has been extracted from MW1 in his cross-examination at Para. 92 as seen above. The engagement and disengagement of daily labours were admittedly done by the claimants as per their rejoinder at Para. 1 but explaining for having no choice since those were engaged in carrying out the clone plants and keeping and depositing the collected fees. Of course, upon such affidavit evidence, they have been cross-examined.

8.2 WW1 in his cross-examination at Para. 34 is found to have stated that their duty was to promote the farmer to plant eucalyptus clones in their field and to sell the same at the price fixed by

M1. WW2 in his cross-examination at Para. 22 stated that his duty was to convince the farmers to plant such siblings on behalf of M1. He also stated there that he was supervising the work of giving siblings to farmers and collection of money from them. W.W.3 in his cross-examination at Para. 26 is found to have admitted that he was supervising all works of providing technical inputs to farmers, distribution of siblings/ clones to them, collection of money during his tenure. Moreover, they have been given suggestions that their case is not maintainable since they were not workmen for they were working in supervisor capacity to which they denied but the same is not true for their own admission. WW1 and WW2 are also found to have denied to have received Rs. 20,000 or more and Rs. 16,000 or more respectively whereas WW3 in his cross-examination at Para. 25 stated that he was drawing salary of Rs. 20,500 P.M. On the other hand, their own claim statement goes to show that WW1-C1 and WW2-C3 were getting monthly salary of Rs. 20,500, Rs. 16,000 Such amount of salary which they were drawing per month is revealed from their own affidavit evidence. As such their testimonies can not be said wholly reliable. Moreover, it is categorically stated by MW1 in his affidavit evidence at Para. 21 that the claimants working in supervisory post and managerial cadre having administrative power and getting salary above Rs. 10,000 per month can not be covered under Section 2(s) of I.D. Act. This has not been rebutted by the claimants. Such works of claimants are disputed by M1 to be clerical and manual as claimed by them since they were doing all these works through temporary workers. On the other hand, their own admission of supervisory works disproves their claim of clerical and manual work particularly in absence of any such manual and/or clerical works as per their above affidavit evidence. The same can also not be accepted in view of above admissions in their rejoinder. Moreover, the claimants are not found consistent in their pleadings since amid such admission of engagement and disengagement of workers, they are also found to have stated that they had no independent authority to appoint or discharge any workman. As such the same cannot be said held true not being clear and convincing one. Thus, it becomes clear that temporary workers were working under their control and supervision in achieving their set targets particularly in view of their own original pleadings in their claim statement read with the WS and their own affidavit evidence that their principal activity was to remain-in-charge of their respective blocks in doing the above works which can not be held clerical or manual for having the authority to engage and disengage without being supervisory or managerial works particularly when they were admittedly drawing more than Rs. 10,000 (ten thousands rupees) only per month at the time of their terminations while holding the post of officers and supervisor or doing their works in supervisory and/or managerial capacity. As such it can be said that the claimants could not prove their works to be manual or and clerical ones as per their claim.

8.3 The above may be the reason which having understood they adduced additional affidavit evidence though WW1 and WW2. Each of them WW1 & WW2 in his further affidavit evidence at Para. 3 and at Para. 7 respectively has stated that from the time of his employment till date of his termination he was assigned and directed to do and he was doing the works of supply of works of supply of tea, coffee and snacks and providing fresh water and other necessary items to the employer and also undertaking domestic works of their employer. This has been disputed in his cross-examination on the ground of being without pleading in his claim statement which is admitted by him and would be seen from his claim statement. The performance of his such works factually becomes doubtful in consideration of his further affidavit evidence that he was not provided with any office accommodation. Moreover, even if the above were not so disputed and if at all they were so doing such works, then also it cannot be said that the same were done as a systemic activity

and with the co-operation of the employer and employee for the production of any good or/and services to human needs since the same were not directly related to any systematic activity of plantations nor the same were disclosed in their appointment letters. Moreover, doing of such works was related to domestic works which are found not believable without being as per the official record particularly in case of M1 which is undisputedly a company having separate entity from its owners/employers. Thus, these works if at all were done by the claimants, the same cannot be reasonably said to have been done in their employment by M1 in absence of production of any proof of any such direction or assignment by the employer. The works done by WW1 and WW1 as stated at Para. 3(a) & Para. 08 respectively of their additional affidavit evidence that each of them was sawing seeds for varieties of plants and was planting seedlings with other co-workers and also watching them and also undertaking loading and unloading timbers also and these works were reported to management staff are admittedly not being supported by any pleading, as extracted in his cross-examination, cannot be accepted in law. Moreover, there is doubt if same were done by them regularly and mainly or substantially amid their own admission at Para. 16 of his further cross-examination by WW1 and earlier cross-examination by WW2 of supervising all such works, As such their own version that they had no power to supervise any works of any worker cannot be said true. Moreover, amid their own admission of engagement and disengagement of daily workers but having no choice in their joint rejoinder as aforesaid, their negation of having supervisory authority can not be accepted nor can be said sustainable. Further though it is also alleged there that their designation have been changed by M1 for its benefits and to deceive them from their lawful benefits as workmen which speak of his unfair labour practice but the same cannot be so believed being very remote one since the alleged termination and their designations are found to have been changed by way of promotion which was given and accepted by WW1 and WW2 much before their alleged terminations. Thus, the same cannot be accepted nor can be sustainable particularly when reference has not been made for adjudication over such dispute of unfair practice, if any. Despite such admissions and their self-contradictory statements as aforesaid and *inter alia* as would be seen in their evidence and pleadings, they are found denying the suggestion that they was not workman and that they were working in managerial and / or supervisory capacity, which cannot be accepted without further proof on their behalf.

8.4 In view of the above, the further affidavit evidence of WW1, WW2 on the whole cannot be held true and acceptable for the above reasons and thereafter thoughts statements. As such the same cannot be called as substantial works as stated to be from begining till the end of their termination which cannot be accepted as such and for the reason; if they had been doing such as substantial works they must have disclosed in their pleadings as well as in their earlier affidavit evidence. Moreover, such works cannot be said obviously normal, regular and substantial works of workman particularly as part of their co-operation with employer for the purpose of production or distribution of goods. Thus, their affidavit evidence without pleadings to this extent cannot be accepted but be rejected and their credibility thereby comes under heavy question marks, particularly when their such works were not as per their appointment letters nor they were provided with any training thereon as would be found from the evidence of WW1 who admitted in his cross-examination at Para. 15, 17 and 21 that he was selling plants in Jeypore Blocks comprising 200 villages over and that they were provided with salary slips unlike 60 other labourers who were paid as per Minimum Wages Act whereas he stated that no register was maintained unlike the labourers. Admittedly the workers under the Plantation Act are paid as per Minimum Wages Act. More importantly

WW1 at Para. 23 admitted that the farmers were chosen from villagers and their names were sponsored by him and they were paid by the company on being identified by him. Admittedly, C4-WW3 got appointed as Junior Officer TraineeExtension on the 1st March 2011 vide Ext. 32.- Appointment letter. This goes to show indirectly the nature of his works though not directly since therein he had to undertake not to run manage any undertaking or establishment that competes with M1 or his its associates or subsidiaries ..xx.. nor he had to accept any mandates as Director, Managing Director or consultant in companies, undertaking or establishments that competes with M1 or its associates or subsidiaries. He was to execute the works of keeping official information/ data of confidential in nature of the company including customers, suppliers, employees, business plans, marketing or other business related information/ date, whereas C1 and C3 were appointed as field Assistants vide Ext. 2 dated the 1st April 1998 & Ext. 22 dated the 24th November 1998 which cannot be said to be same alike Ext. 32 since not disclosing such nature of works. Thus, their contention that their designations were only in paper works but they all were doing the same as stated above cannot be accepted. Such differential works are neither found from claim statements or affidavit evidence. It is revealed from Ext. 2 and Ext. 22, C1 and C3 were given Rs. 1,900 and Rs. 1,700 per month as stipend. True at the time of their terminations they may be working same works after C1 and C3 were given promotion to the cadre of officers and the same may be occasionally but not as regular, main and substantial works at variant wages or salaries for no human being far less an business undertaking would give different wages/salaries to same work without any *mala fide* intention nor any workman would remain silent without raising voice for different treatment in terms of wages/salaries or/and promotions etc. for the same work. No such voice is found to have been heard despite long period of their silence and accepting promotions and salaries accordingly. Thus, such allegation of *mala fide* cannot be believed without any proof. To examine the same, more to be seen how and why the promotion have been given to the claimants.The same may be permitted to be shown in tabular form as given below for quick understanding:—

8.5 Pay structure of C1, C3 and C4 and promotion

Items	C1	C3	C4	REMARKS
(1)	(2)	(3)	(4)	(5)
Joining date	01-04-1998/Ext.2	24-11-1998 Ext.22	03-03-2011 Ext.32	C4- keeping data relating to customers, suppliers, marketing, employees, business partners, marketing etc.
Status as Trainee	Field Assistant/ 1,900	Field Assistant/ 1,700	Jr. Officer 84,000 p.a.	
Confirmation/Date	1-04-1999/Ext.3	01-1-2000 Ext.23		
Wages/ Salary	2,400	Rs. 2,000		
1st Promotion	Supervisor/Ext.5-01-04-2003	Supervisor-01-04-2006		Improve quality, reduce cost and exceed expectation.
Wages/ Salary	3,700 p.m.	Rs. 2,440		target to improve fibre resources around manufacturing unit-C3

(1)	(2)	(3)	(4)	(5)
2nd Promotion	Senior Supervisor Ext.9-01-07-2008			Team target of 12 million clones in 4800 hectares.-C1 & C3
Wages/ Salary				
	87,972 p.a.	70,776 p.a.		Rs. 7,331 C1 Rs. 5,898 C3
3rd Promotion	Jr. Officer 01-07-2010			L-B0
Wages/ Salary				
	Rs. 1.25 lacs p.a. Ext.11,		Rs. 1.25 lacs Ext.34	Rs.10,416 p.m. C1-Team Effort
	Rs. 1.50 p.a 01-07-2011-Ext.12			Rs. 12,500 p.m.C1-Team Effort Rs. 10,416 p.m. C4
	Rs. 1.69 lacs p.a. 01-07-2012-Ext.13	2.24 lacs	Rs. 1.45 lacs.	Rs. 12,083 p.m. C4
	Rs. 2.04 lacs p.a. Ext.14-01-07-2014			Rs. 17,000 p.m. C1
4th Promotion	Officer-B1-2.32 lacs- Ext.15-01-07-15, 2.46 lacs Ext.16-01-07-2016			Rs. 19,333 p.m. C1 Rs. 20,500 p.m. C1 Rs. 11,300 p.m. C2 Rs. 16,000 p.m. C3 Rs. 1,73,000 p.m. C4

From the above discussions of appreciation of both ocular and documentary evidence and pleadings containing their admissions and other facts and circumstances appearing on record, it appears no doubt that the claimants being in-charge of defined and allocated area of the business activities of M1 for the development or promotion of its business so as to achieve their respective team target they were working in managerial/ administrative capacity and/or supervisory capacity and drawing monthly salary of more than Rs. 10,000 and in some occasions they may be doing some manual/clerical works along with other workers so as to achieve their set target but it cannot be safely said that the claimants were employed do such manual or clerical rather than the managerial or supervisory works nor it can be said that they were employed to do mainly manual/ clerical works which are found not regular or substantial nor direct within the systematic activity of production of goods or services to meet human wants unlike other workers who were under their control and supervision having the authority to engage or disengage as and when it was required as seen above. Moreover, the claimants cannot be said workmen for the payment of wages to workers as per Minimum Wages Act unlike the claimants is mandate of the Plantation Labour Act as per 2(i) of the Act. In reiteration it can also be said that Section 2 [(k) of this Act also prescribes that “worker” means:

> “A person employed in a plantations for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled manual or clerical, 7[and includes a person employed on contract .xx..] but does not include-(i) ..xx.(ii) any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed

> 9 [rupees ten thousand]; (iii) any person employed in the plantation primarily in a 10 [managerial or administrative capacity, notwithstanding that his monthly wages do not exceed rupees ten thousand]; or (iv) ..x.x.

The meaning of “Worker” under Section 2(k) of the Plantation Act can be said similar to the meaning of “workman” under Section 2(s) of I.D. Act. Thus, the claimants cannot be said workmen under the I.D. Act particularly doing works of managerial and/or in supervisory capacity and drawing salary but not wages exceeding ten thousand rupees per months though such amount has been disputed in the written argument on behalf of the claimants but the same can not be said sustainable in view of Section 2(rr) of the I.D. Act as well as Section 2 (h) of Minimum Wages Act defining wages in consideration of the available evidence in this regard which cannot be said to be confined to basic pay only as contended in the said written notes of argument, even if the salary be at all be construed as wages whereas the said argument undisputedly admits monthly wages of WW1, WW2 and WW3 is more than ten thousands rupees and more.

9. Amid the above discussion, I may be permitted to examine the relied upon decisions having the relevancy over the issue of workmen for their applicability in this case. In the case of S.K. Maini (*Supra*) on it perusal it would be seen that the appellant shop manager-in-charge of respondent company who was terminated for his predominant duty was of administrative or managerial and to some extent supervisory in nature and although some of duties undertaken by him like maintaining accounts filling certain *pro formas* clerical in nature but his major job was managerial in nature, the appellant cannot be held workman within meaning of Section 2 (s) of I.D Act. Accordingly, the reference was not maintainable. Accordingly, it can be said safely that though the facts of the said decision appearing dissimilar to this present case is not helpful to the claimants even in view of its principle as follows:—

> “9 ...xx.. After giving our careful consideration to the facts and circumstances of the case and the submissions made by the Learned Counsel for the parties, it appears to us that whether or not an employee is a workman under Section 2(s) of the Industrial Disputes Act is required to be determined with reference to his principal nature of duties and functions. Such question is required to be determined with reference to the facts and circumstances of the case and materials on record and it is not possible to lay down any strait-jacket formula. When an employee is employed to do the types of work enumerated in the definition of workman under Section 2(s), there is hardly any difficulty in treating him as a workman under the appropriate classification but in the complexity of industrial of commercial organisations quite a large number of employees are often required to do more than one kind of work. In such cases, it becomes necessary to determine under which classification the employee will fall for the purpose of deciding whether he comes within the definition of workman or goes out of it...xx.. that the principal function of the appellant was of administrative and managerial nature. It is true that he himself was also required to do some works of clerical nature but it appears to us that by and large Shri Maini being in-charge of the management of the shop had been principally discharging the administrative and managerial work . ..xx .. dismissed without, however, any order as to cost”

9.1 This same is in case of his relied upon decision in Hussan Mithu Mhasvadkar (*Supra*) where appellant working in 'Board' constituted under Act of 1969 which was held not 'industry' and the appellant was not employed in 'industry' cannot be considered to be engaged in doing any manual, unskilled, skilled, technical, operational, clerical or supervisory work and it was held that he does not fall within definition of 'workman' under Section 2 (s) of I.D. Act wherein the principle as it has been held that :

> "..xx.. 10 No doubt in deciding about the status of an employee, his designation alone cannot be said to be decisive and what really should go into consideration is the nature of his duties and the powers conferred upon as well as the functions assigned to him.11. Even if the whole undertaking be an industry, those who are not workmen by definition may not be benefited by the said status. It is the predominant nature of the services that will be the true and proper test...xx.. we are unable to accord our approval to the claim made on behalf of the appellant that he can yet be assigned the status of a 'workman', without doing violence to the language of Section 2(s) and the very purpose and object of tem I.D. Act, 1947 ...xx.."

9.2 In S.K. Verma *Vs*. Mahesh Chandra and Ors. (*Supra*) which being factually completely dissimilar as far as principal or main duties of the claimants, save and except to the some extent relating to general development of the business of employer ,can not be said helpful to the claimants in the present case, more fully for being substantially different in terms of material facts of the nature of duties as supervisory as per their own admission and salary drawn by the claimants and the nature of plantation activity under the Plantation Labour Act and for most importantly this relied upon judgment is found to have been declared as per incurium by the judgment of Constitutional Bench of the Hon'ble Apex Court in the case of H.R. Adyanthaya etc. (*Supra*) which has been relied upon on behalf of M1. Accordingly, the principles as evolved in this particular case, if any being not suited to the facts of this case and for contradicting to the principle of the above constitutional bench judgment can not be said applicable in this case. However, the relevant portion of this Judgment as relied upon by the claimants may be stated below:—

> "..x.x... question of determination of development officer workman or not depends upon nature of duties and the development officer during clerical job comes within meaning of workman allowing the appeal filed by S.K. Verma, Development Officer in Jullunder Branch of the Corporation challenging his dismissal where the Life Insurance Corporation promptly raised a preliminary objection regarding maintainability of the reference on the ground that Shri S.K. Verma was not workman. ..xx...The words' any skilled or unskilled manual, supervisory, technical or clerical work' are not intended to limit or narrow the amplitude of the definition of workman'; on the other hand they indicate and emphasise the broad sweep of the definition which is designed to cover all manner of persons employed in an industry, irrespective of whether they are engaged in skilled work or unskilled work, manual work, supervisory work, technical work or clerical work. Quite obviously the broad intention is to take in the entire 'labour force' and exclude the 'managerial force'. That of course, is as it should be...xx.. Notwithstanding the glorified designation, we must look to the nature of his duties to

discover what precisely a development officer is ? The Life Insurance Corporation of India (Staff) Regulations classifies the staff into four categories as follows: Class I- Officers, Class II- Development Officers, Class III- Supervisory and Clerical Staff Class IV- Subordinate Staff. It is seen that development officers while classified separately from 'Supervisory and Clerical Staff' are also classified separately from 'Officers'...xx.. The scale of pay as well as the authorities competent to appoint and take-disciplinary action indicate that the appellation 'development officer' is no more than a glorified designation. Development Officers are separated from 'officers' strictly so called and are generally placed on a par with subordinate and clerical staff..xx... 6. Duties & Obligations: Your duties are mainly to organize and develop the business of the Corporation in the area allotted to you, and for that purpose to recruit active and reliable agents drawn from different communities and ..xx....x.x... 9. A perusal of the above extracted terms and conditions of appointment shows that a development officer is to be a whole time employee of the Life Insurance Corporation of India, that his operations are to be restricted to a defined area and..xx.. Even so he has not the authority to appoint agents or to take disciplinary action against them. He does not even supervise the work of the agents though he is required to train them and assist them. .x.x. The agents are not his subordinates ...x.x.In fact, it is admitted that he has no subordinate staff working under him. It is thus clear that the development officer cannot by any stretch of imagination be said to be engaged in any administrative or managerial work. He is a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 10. The order of the Industrial Tribunal and the judgment of the High Court are set-aside and the matter is remitted to the Industrial Tribunal for disposal according to law...x.x.

10. To counter the above, the relevant decision on behalf of the M1 H.R. Adyanthaya and Ors. *Vs*. Sandoz (India) Ltd. and Ors. (*Supra*)- A decision of 5-Judges Bench of Hon'ble Apex Court which is partially relevant to the extent of works of sales promotion to the works of plantation development as seen above wherein it has been held that the word "skilled" does not include work of sales promotion employee and that the work of medical representative different from that work covered under Section 2 (s) and that medical representatives not workmen holding the same on the principles as propounded therein. I may be permitted to quote some relevant ones in here:

> "....xx.. (b) any activity relating to the promotion of sales or business or both carried on by an establishment, but does not include -..xx.. It will be seen that by the amended definition of 'industry", an activity relating to the promotion of sales or business of both, carried on by any establishment is for the first time sought to be brought within the said definition. However, the amended definition of "industry" has not till date come into force...xx...2. A three-judges bench of the Court in May & Baker (India Ltd. *v*. Their Workmen (1961) 2 LLJ 94 had to deal directly with the question as to whether the medical representative of the company, who was discharged from service, was a workman under the ID Act and.xx.. it was clear that the employee's duties were mainly neither clerical nor manual and, therefore, he was not a workman. ..xx.. ..x.x. The next decision is also of the same three-Judges Bench in Western India Match Co. Ltd. *v*.

Their Workmen (1963)IILLJ459SC. The dispute there was...xx... and whether inspectors, salesmen and retail salesmen of the sales-office were workmen within the meaning of the U.P. Industrial Disputes Act. ..xx.. "which definition was the same as under as under the Central Act, viz., the ID Act...xx.The Tribunal had accepted the evidence of the workmen that the writing work of the inspectors, salesmen and retail salesmen took 75 percent of the time. This Court accepted the said finding ...xxx.... 13. May & Baker case (*Supra*). In Burmah Shell Oil storage & Distribution Co. of India *v*. Burmah Shall Management Staff Association and Ors.

(1970)IILLJ590SC, the dispute, among others, was whether the Sales Engineering Representatives and District Sales Representatives employed in the company were workmen within the meaning of the ID Act...xx..xx.. consequently the Court should proceed on the assumption that every person is a workman unless he fell under one of the four exceptions to the definition. The Sourt rejected this contention. The Court referred the decision in May & Baker Case (*Supra*) and ...xx... The Court then referred to a case where employees are employed to do work of more than one of the types mentioned in the definition, and pointed out that in such cases the principle was well-settled that a person must be held to be employed to do that work which is the main work he is required to do, even though he may be incidentally doing several types of work. Referring in this connection to the May & Baker case (*Supra*),..xx.. the Court pointed out at that case, it was noticed that the employees' duties were mainly neither clerical nor manual although his duties did involve some clerical and manual work and hence he was held not to be a workman...xx.. The Court then referred to the nature of duties of Sales Engineering Representatives and the District Sales Representatives with whom, among others, ..xx.....xx.., the Court held that the work that they were holding was neither manual nor technical nor supervisory and further added that the work of canvassing and promoting sales could not be included in any of the said four classifications and the decision given by the Tribunal that they were not workman was valid. 14. In S.K. Verma *v.* Mahesh Chandra and Anr. : (1983)IILLJ429SC, the dispute was whether Development Officers of the Life Insurance Corporation of India (LIC) were workmen. xxx..xx. The Court then referred to the nature of duties of the Development Officers... xx... He did not even supervise the work of the agents though he was required to train them and assist ..xx... The Court, therefore, held that it was clear that the Development Officer could not by any stretch of imagination be said to be engaged in any administrative or managerial work and, therefore, he was a workman within the meaning of the ID Act. Accordingly, the order of the Industrial Tribunal and the judgment of the High Court holding that he was not a workman was set-aside. As has been pointed out above, this decision did not refer to the earlier three decision in May & Baker, WIMCO and Burmah Shell cases (*Supra*) and obviously proceeded on the basis that if an employee did not come within the four exceptions to the definition, he should be held to be a workman. This basis was in terms considered and rejected in Burmah Shell case (*Supra*) by a coordinate bench of three-judges. Further no finding is given by the Court whether the development Officer was doing clerical or technical work. He

was admittedly not doing manual work. We may have, therefore, to treat this decision as per incuriam. 15 Ved Prakash Gupta *v.* Delton Cable India (P) Ltd. :(1984)ILLJ546SC was decided by the same three-judge Bench which decided the S.K. Verma case (*Supra*). The question there was whether the Security Inspector at the gate of the factory was a workman within the meaning of the ID Act. ..xx... No written list of duties was given to the employee. The appellant was also doing other items or work such as signing identity cards of workmen ..xx.. He could not appoint or dismiss any workman or order any enquiry against any workman ..xx.,, ..xx._:_.Till the 29th August, 1956 the definition of workman under the ID Act was confined to skilled and unskilled manual or clerical work and did not include the categories of person who were employed to do "supervisory" and "technical" work. The said categories came to be included in the definition w.e.f. the 29th August 1956 by virtue of the Amending Act, 36 of 1956. It is, further, for the first time that by virtue of the Amending Act, 46 of 1982, the categories of workmen employed to do "operational" work came to be included in the definition. What is more, it is by virtue of this Amendment that for the first time those doing non-manual unskilled and skilled work also came to be included in the definition with the result that the persons doing skilled and unskilled work whether manual or otherwise, qualified to become workman under the I.D. Act. ..xx... The Court had also, therefore, to decide the category of the sales representative with reference to whether the work done by him was of a clerical or manual nature. The Court's finding was that the canvassing for sale was neither clerical nor manual, and the clerical work done by him formed a small fraction of his work. Hence, the sales representative was not a workman. 21 In WIMCO Case (*Supra*) the dispute had arisen on August 18,1961 ..xx.. In other words the Court did hold that the work of selling matches was as much as operation part of Industrial establishment as was that of manufacturing 22. in Burmah Shell Case (*Supra*) ..XX.. The Court relied upon the decision of May and Baker Case (*Supra*) and pointed out that in order to qualify to be a workman under the I.D. Act, a person concerned had to satisfy that he fell in any of the four categories of manual, clerical, supervisory or technical workman. 23 however the decisions in later cases viz S.K. Verma, Delton Cable and xx 24. We thus have three Judge Bench decisions which have taken the view that a person to be qualified to be a workman must be doing the work which falls in any of the four categories, viz, manual, clerical, supervisory or technical and two two-Judge Bench decisions which have by referring to one or the other of the said three decisions have reiterated the said law. As against this, we have three three Judge Bench decisions which have without referring to the decisions in May & Baker, WIMCO and Burmah Shell cases (*Supra*) have taken the other view which was expressly negatived, viz., if a person does not fall within the four exceptions to the said definition he is a workman within the meaning of the ID Act. These decisions are also based on the facts found in those cases. They have, therefore, to be confined to those facts. Hence the position in law as it obtains today is that a person to be a workman under the

LA Act must be employed to do the work of any of the categories, viz., manual, unskilled, skilled, technical, operational, clerical or supervisory. It is not enough that he is not covered by either of the four exceptions to the definition. We reiterate the said interpretation. 25. What is further necessary to remember is that in none of the aforesaid decisions which we have discussed above, the word “operational” or the words “skilled” and “Unskilled” independently of “manual” fell for consideration as the amendment under which they were introduced came into operation for the first time w.e.f. the 21st August, 1984 and the dispute involved in the aforesaid decisions were of the prior dates ..xx..x.x.... It also appears that the Parliament has amended the definition of “industry” by the Amending Act, 46 of 1982 to include, in the definition of industry in Section 2(j) of the ID Act, among others, any activity relating to the promotion of sales or business, or both carried on by any establishment. However, that amendment has not yet come into force. But the amendment made by the very same Amending Act, of 1982 to the definition of “workman” in Section 2(s) to include those employed to do “operational work”, and to the definition of “wages” in Section 2(rr) to include “any commission payable on the promotion of sales or business or both” has come into force w.e.f. the 21st August 1984.6. In the light of the above position of law emerging from the judicial decisions, the statutory provisions and the changes in them, we may now deal with the contentions advanced before us.It was contended by Shri Sharma, appearing for the workmen that the definition of workman under the ID Act includes all employees except those covered by the four exceptions to the said definition. His second contention was that in any case, the medical representatives perform duties of skilled and technical nature and, therefore, they are workmen within the meaning of the said definition. We are afraid that both these contentions are untenable in the light of the position of law discussed above. The first contention was expressly negative by two three-Judge Benches in May & Baker and Burmah Shell cases (*Supra*) as has been pointed out in detail above. As regards the second contention, it really consists of two sub-contentions, viz., that the medical representatives are engaged in “skilled”, and “technical” work as regards the word “skilled”, we are of the view that the connotation of the said word in the context in which it is used, will not include the work of a sales promotion employee such as the medical representative in the present case. That word has to be construed ejusdem generis and thus construed, would mean skilled work whether manual or non-manual, which is of a genre of the other types of work mentioned in the definition. The work of promotion of sales of the product or services of the establishment is distinct from and independent of the types of work covered by the said definition. Hence the contention that the medical representatives were employed to do skilled work within the meaning of the said definition, has to be rejected. As regards the “technical” nature of their work, it has been expressly rejected by this Court in Burmah Shell case (*Supra*). Hence that contention has also to be rejected”

10.1 Besides, Anand Regional Co-op. Oil Seedsgrowers Union Ltd. *Vs*. Shaileshkumar Harshadbhai Shah (*supra*) has been relied upon on behalf M1 on perusal of the same it can be said that the facts are dissimilar and as such, among others, it cannot be denied that it is helpful to M1 so far some principles as would be seen therein, wherein the Respondent working as Assistant Executive in Quality Control Department of appellant committed a misconduct for which through a disciplinary proceeding he was found guilty of the alleged misconduct on his part and was imposed with the punishment of dismissal from service for which an industrial dispute was raised culminating in a reference made by the appropriate Government to the Labour Court, Anand where the Appellant *inter alia* raised a contention that in view of the nature of duties performed by the Respondent herein he does not fall within the definition of 'workman' as contained in Section 2(s) of the I.D. Act which was negatived ..xx.. against which a writ petition was filed but the same as well as in intra-court appeal taken by the Appellant was dismissed...xx.. It was held that the ingredients of the definition of 'workman' must be considered having regard to the following factors :

> "14 For determining the question as to whether a person employed in an industry is a workman or not; not only the nature of work performed by him but also terms of the appointment in the job performed are relevant considerations...xx 9. Supervision contemplates direction and control. While determining the nature of the work performed by an employee, the essence of the matter should call for consideration. An undue importance need not be given for the designation of an employee, or the name assigned to, the class to which he belongs. What is needed to be asked is as to what are the primary duties he performs. For the said purpose, it is necessary to prove that there were some persons working under him whose work is required to be supervised. Being in-charge of the section alone and that too it being a small one and relating to quality control would not answer the test. The precise question came up for consideration in Ananda Bazar Patrika (P) Ltd. *v.* Workmen: (1969)IILLJ670SC wherein it was held: The question, whether a person is employed in a supervisory capacity or on clerical work, in our opinion, depends upon whether the main and principal duties carried out by him are those of a supervisory character, or of a nature carried out by a clerk. If a person is mainly doing supervisory work, but, incidentally or for a fraction of the time, also does some clerical work, it would have to be held that he is employed in supervisory capacity; and, conversely, if the main work done is of clerical nature, the mere fact that some supervisory duties are also carried out incidentally or as a small fraction of the work done by him will not convert his employment as a clerk into one in supervisory capacity ....xx.. A person indisputably carries on supervisory work if he has power of control or supervision in regard to recruitment, promotion, etc...xx....xx."

11. In view of the above long run discussion and having regard to the aforesaid authoritative pronouncements as relied upon on behalf of M1 as to position of law in interpretation of definition of workman under Section 2(s) of the I.D. Act even after its amendment, there remains no doubt that a person to be a "workman" under Section 2(s) of I.D. Act must be employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.

In this case, the claimants though claiming to have been employed to do manual or clerical works denying their employment of working in managerial/administrative capacity or supervisory works and drawing salary more than the prescribed limit of Rs. 10,000 are found to have failed to prove their claim of mainly of manual or clerical works by their own evidence. As such and considering all the evidence as appearing on record including their admissions therein and taking into both side pleadings of claim statement, ws and rejoinder thereon, it cannot be safely held that the claimants had been employed to do manual or clerical as claimed by them nor can be denied that they being employed in M1 had been working supervisory capacity and drawing more than ten thousands per month and/or doing managerial works as contended on behalf of M1 and their duties mainly of managerial nature being in-charge of the particular defined area and thereby they were working as management staff and for that purpose they might have done some manual works/or clerical works, as stated in their additional affidavit though the same could not be called as proved being beyond pleadings, only on occasions but not as regular or substantial or direct as systematic works for aforesaid reasons as seen in the above discussion, and in view of the aforesaid statutory provisions of Plantation Act as well I.D. Act and having due regard to the principles as propounded in the above authoritative pronouncement of Hon'ble Apex Court as relied upon on behalf of M1 declaring the decision relied upon on behalf of the claimants in the case of S.K. Verma(*supra*) as per incuriam. Accordingly, it can be safely said that the claimants cannot be said to come within the definition of "workman" of under Section 2(s) of the I.D. Act for being covered under its exclusion Clause (iv), if M1 be held to be doing industrial undertaking for doing agricultural operations within the meaning of the Plantation Act remaining undisputed by M1 as to its application despite the clear-cut pleading of the claimants thereto or otherwise carrying on any industry within the meaning of 2(j) of the I.D. Act as seen above. Consequentially, their such dispute or difference with M1 can not be safely said to be an industrial dispute under Section 2(K) of the I.D. Act so as to maintain this proceeding for adjudication of the same under I.D. Act far less of any relief under Section 25-F thereunder. Moreover, the claimants are found to have failed to prove if the said unit where they were working is still continuing and if in their places any other workman has been re-engaged so as to invoke the provisions Section 25G/25-H of the I.D. Act and to prove their allegations thereunder for the aforesaid reasons including they being held not workmen. Consequentially, this proceeding on reference which was based on the failure report of C.O. annexed to Ext.1 not disclosing their undisputed promotions to the post of managerial/supervisory capacity much earlier to their dispute of termination but only disclosure of their status of service only up to a regular field Assistant cannot be held maintainable to answer the schedule question under the above reference nor can be said that the terminations of the services of the claimants by way of refusal of further employment is legal and/or justified or not otherwise lacking jurisdiction for the aforesaid reasons.

Accordingly, these issue are answered.

Issue No. (iv) :— As it has already been held that the claimants are not workmen under Section 2(s) of the I.D. Act being covered under its exclusions and as such the alleged terminations of their services by way of refusal of further employment by M1 could not be held legal and/or justified or not for the reasons as aforesaid, it can be safely said that the claimants are not entitled to any relief under I.D. Act. Hence order :—.

ORDER—This proceeding be and the same is dismissed in on contest against the management for being not maintainable in view of the above findings. However, considering the facts and circumstances of the case, no order as to cost. This award forthwith be submitted u/r 10B (10) of the Orissa Industrial Dispute Rules, 1959 to the above appropriate Government for due publication under Section 17 of the I.D. Act, 1947.

Typed and corrected by me.

Transcribed in office computer to my dictation partly by office typist and partly by myself & corrected by me.

PRAVURAM DAS ADHIKARI
23-05-2025
Presiding Officer
Labour Court, Jeypore (K)

PRAVURAM DAS ADHIKARI
23-05-2025
Presiding Officer
Labour Court, Jeypore (K)

[No. 6900—LESI-IR-ID-0062/2017-LESI.]

By order of the Governor

MADHUMITA NAYAK

Special Secretary to Government

Witness examined on behalf of workman :

W.W.No. 1 : Rajendra Kumar Patra

W.W.No. 2 : Manoj Kumar Tripathy

W.W.No. 3 : Subrat Kumar Patra

Witness examined on behalf of management :

W.W.No. 1 : Madhu Soodhanan Pillai

Documents produced on behalf of workman :

Ext. 1 : The notification of E.S.I. Department vide Order No 7003, dated the 9th October 2018

Ext. 2 : The appointment Letter dated the 1st April 1998 of Rajendra Kumar Patra

Ext. 3 : The letter of regularisation dated the 11th January 2000

Ext. 4 : The letter of increment dated the 1st March 2002

Ext. 5 : The letter of annual increment dated the 15th July 2003

Ext. 6 : The next letter of annual increment dated the 8th November 2005

Ext. 7 : The letter of annual increment dated the 16th May 2006

Ext. 8 : The letter of annual increment dated the 27th August 2007

Ext. 9 : The letter of annual increment dated the 18th September 2008

Ext. 10 : The letter of annual increment dated the 29th September 2009

Ext. 11 : The letter of annual increment dated the 25th October 2010

Ext. 12 : The letter of annual increment dated the 22nd September 2011

Ext. 13 : The letter of annual increment dated the 4th December 2012

Ext. 14 : The letter of annual increment dated the 1st April 2014

Ext. 15 : The letter of annual increment dated the 14th August 2015

Ext. 16 : The letter of annual increment dated the 28th July 2016

Ext. 17 : The letter of termination dated the 22nd September 2016

Ext. 18 : The legal notice dated the 29th September 2016 addressed to the manager of O.P. Company at Jeypore.

Ext. 19 : The grievance petition dated the 29th September 2016 to the CEO through mail by workman.

Ext. 20 : The reply of O.P. to the legal notice on the 6th October 2016

Ext. 21 : Letter of acceptance of the settlement amount through the D.L.O., Jeypore during conciliation proceeding on the 23rd November 2016.

Ext. 22 : The appointment letter dated the 24th November 1998 of Manoj Kumar Tripathy

Ext. 23 : Confirmation letter dated the 11th January 2000

Ext. 24 : Serials (13 sheets) is his early increment from 2002 to 2016 respectively except-2004

Ext. 25 : Letter of termination dated the 22nd September 2016

Ext. 26 : The office copy his advocate notice against his termination dated the 29th September 2016.

Ext. 27 : The reply of the company on the 6th October 2016

Ext. 28 : The grievance petition filed by the DLO, Jeypore on the 12th October 2016

Ext. 29 : His full and final settlement made by company and he has received through cheque (3 sheets).

Ext. 30 : The copy of protest petition filed before the D.L.O. on receipt of full and final settlement on the 23rd November 2016.

Ext. 31 : The copy of protest petition submitted to the company on receipt of full and final settlement on the 23rd November 2016.

Ext. 32 : The appointment letter dated the 1st March 2011 of Subrat Kumar Patra

Ext. 33 : The letter issued by the management on the 9th May 2011 for opening of a bank account for disbursement of salary.

Ext. 34 : Series (seven sheets) are my yearly increment of salary

Ext. 35 : The copy of protest petition submitted to company on the 23rd September 2016 against his termination.

Ext. 36 : The office copy of advocate notice dated the 29th September 2016

Ext. 37 : The reply of the company to his advocate notice dated the 6th October 2016

Ext. 38 : The letter issued by the company to him directing to deposit an amount of Rs. 98,420 on the 3rd October 2016.

Ext. 39 : The copy of petition filed before D.L.O., Jeypore for illegal termination on the 19th November 2016.

Ext. 40 : The copy of full and settlement made by the company on the 23rd November 2016 (3 sheets).

Ext. 41 : The protest petition filed before the company on the 14th December 2016 along with a copy of conciliation office (D.L.O.), Jeypore.

Ext. 42 : Another letter issued by the company on the 20th March 2017 directing him to deposit Rs. 32,607.

Ext. 43 : The letter written to the conciliation officer regarding issuance of Ext-42 on the 3rd April 2017.

Ext. 44 : Rajendra Kumar Patra has filed the copy of petition submitted to the DLO, Jeypore against his illegal termination on the 13th October 2016.

Ext. 45 : The protest petition filed before the company against the acceptance of full and final settlement by the company on the 23rd November 2016 along with a copy to DLO, Jeypore.

Ext. 46 : He filed the copy of the Business Transfer Agreement dated the 6th December 2014 (18 sheets).

Ext. 46/1 : Details of employees

Documents produced on behalf of the management:

Ext. A : Appointment letter dated the 1st April 1998 of Rajendra Kumar Patra.

Ext. B : The confirmation letter dated the 11th January 2000 of R.K. Patra.

Ext. C : The promotion letter of R.K. Patra on the 25th October 2010.

Ext. D : The promotion letter Grade B-1, dated the 14th August 2015 of R.K. Patra.

Ext. E : Increment letter dated the 28th July 2016 of R.K. Patra.

Ext. F : The last salary slip of R.K. Patra for September, 2016.

Ext. G : The termination letter dated the 22nd September 2016 of R.K. Patra.

Ext. H : The legal notice dated the 29th September 2016 of the workman to the management.

Ext. J : The reply to the legal notice dated the 6th October 2016.

Ext. K : The letter issued to R.K. Patra for full and final settlement.

Ext. L : The copy of cheque bearing 007709 of BOI issued in favour of R.K. Patra for Rs. 1,54,837 towards full and final settlement.

Ext. M : The statement of full and final settlement of R.K. Patra.

Ext. N : The statement of bank account of the company showing encashment of Rs. 1,54,837 by the workman R.K. Patra.

Ext. P : The notice from D.L.O., Jeypore vide Letter No 6793, dated the 24th October 2016 along with the complaint petition filed by R.K. Patra before the D.L.O., Jeypore.

Ext. Q : The written submission dated the 22nd November 2016 submitted to D.L.O., Jeypore.

Ext. R : The written submission dated the 14th December 2016 submitted to D.L.O., Jeypore.

Ext. S : The written submission dated the 14th December 2016 submitted to D.L.O., Jeypore.

Ext. T : My statement given before the D.L.O., Jeypore (with objection).

Ext. V : The appointment letter of S.B. Roy.

Ext. W : The joining report of S.B. Roy.

Ext. Y : The last increment for July, 2016 of S.B. Roy.

Ext. Z : The transfer order dated the 1st March 2016 of S.B. Roy.

Ext. AA : The last salary slip of S.B. Roy.

Ext. AB : The termination letter of S.B. Roy.

Ext. AC : The legal notice dated the 29th September 2016 issued by S.B. Roy to the company.

Ext. AD : The reply to legal notice by the management.

Ext. AE : The letter of full and final settlement of S.B. Roy along with the calculation sheet.

Ext. AF : The copy of cheque bearing No. 007706 of BOI issued in favour of S.B. Roy by the company.

Ext. AG : The bank statement of the company.

Ext. AH : The notice of D.L.O., Jeypore vide Letter No. 6793, dated the 24th October 2016 along with representation of S.B. Roy.

Ext. AJ : The appointment letter of M.K. Tripathy.

Ext. AK : The confirmation letter of M.K. Tripathy.

Ext. AL : The promotion letter of M.K.Tripathy to Grade-B.

Ext. AM : The annual pay particulars of M.K. Tripathy.

Ext. AN : The last increment letter dated the 28th July 2016 of M.K. Tripathy.

Ext. AP : The last salary slip of M.K. Tripathy September, 2016.

Ext. AQ : The termination letter dated the 22nd September 2016 of M.K. Tripathy.

Ext. AR : The legal notice issued by M.K. Tripathy on the 29th September 2016.

Ext. AS : The reply of company to the legal notice.

Ext. AT : The full and final settlement of claim of M.K. Tripathy along with the calculation sheet.

Ext. AV : The cheque bearing No. 007710 of BOI issued in favour of M.K. Tripathy.

Ext. AW : The bank statement of the company.

Ext. AY : The appointment letter of S.K. Patra.

Ext. AZ : The confirmation letter dated the 3rd September 2012 of S.K. Patra.

Ext. AAA : The letter of promotion of S.K. Patra to Grade-B1.

Ext. AAB : The last increment letter dated the 28th July 2016 of S.K. Patra.

Ext. AAC : The last salary slip of S.K. Patra.

Ext. AAD : The termination letter of S.K. Patra.

Ext. AAE : The legal notice issued by S.K. Patra to our company dated the 29th September 2016.

Ext. AAF : The letter issued by the company to S.K. Patra directing to clear the outstanding due of Rs. 98,420 of the company vide letter dated the 3rd October 2016.

Ext. AAG : The reply to the legal notice of S.K. Patra.

Ext. AAH : The letter of reminder dated the 20th October 2016 to S.K. Patra for clear of due of the company.

Ext. AAJ : The full and final settlement of S.K. Patra along with calculation sheet.

Ext. AAK : The letter of reminder dated the 20th March 2017 to pay the outstanding dues of the company to S.K. Patra.

Ext. AAL : The financial statement of the company for March, 2017.

Ext. AAM : The list of employees of the company as on the 30th September 2016.

Ext. AAN : The list of employees of the company as on the 31st August 2019.

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